

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SONNY RAY HARDAWAY,

Plaintiff,

No. 2:12-cv-2292 KJN P

vs.

BOARD OF PRISON TERMS, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner incarcerated at Salinas Valley State Prison in Soledad, California. Plaintiff, who proceeds without counsel, has filed a pleading designated a civil rights complaint pursuant to 42 U.S.C. § 1983, although the contents of the petition suggest that plaintiff may be seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Under either construction, the pleading was improperly filed in this court.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

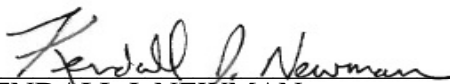
1 In the instant case, the complaint identifies Sacramento as the place in which  
2 defendant Board of Prison Terms does business, and hence the business address of Jeffrey  
3 Champlin, who is apparently a CDCR official. However, it appears that the alleged acts took  
4 place at Salinas Valley State Prison and, therefore, that the claim arose in Monterey County,  
5 which is in the Northern District of California. Therefore, plaintiff's claim should have been  
6 filed in the United States District Court for the Northern District of California. In the interests of  
7 justice, a federal court may transfer a complaint filed in the wrong district to the correct district.  
8 See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. This matter is transferred to the United States District Court for the Northern  
11 District of California.

12 2. The undersigned notes that plaintiff has not yet paid the filing fee or filed an  
13 application to proceed in forma pauperis.

14 DATED: September 24, 2012

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17 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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